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IN THE

Supreme Court of the United States

October Term, 1960

No. 34

TIMES FILM CORPORATION,

Petitioner,

vs.

**CITY OF CHICAGO,
RICHARD J. DALEY,
TIMOTHY J. O'CONNOR,**

Respondents.

On Petition for Rehearing

**MOTION FOR LEAVE TO FILE A BRIEF WITH BRIEF
ANNEXED AS *AMICI CURIAE* FOR THE AMERICAN
SOCIETY OF MAGAZINE PHOTOGRAPHERS AND
THE SOCIETY OF MAGAZINE WRITERS**

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*Amici Curiae***

American Society of Magazine Photographers (hereinafter referred to as "A.S.M.P.") and the Society of Magazine Writers hereby respectfully move for leave to file a brief annexed hereto as *amici curiae* in this case.

Petitioner has consented in writing to the filing of this *amicus* brief. Respondents have refused to consent thereto.

A.S.M.P., *amicus curiae* herein, is a membership corporation organized under the laws of the State of New

York in 1945. It consists of approximately 575 members from all over the United States and its membership includes most of America's foremost photographers. It is dedicated to the representation of its members in the field of magazine photography. The work of the member photographers, however, is not limited to magazine photography but includes photography for newspapers, books, commercial purposes, and exhibition purposes. Many of the member photographers also work in the medium of documentary motion pictures and other forms of cinematic expression.

Because of its concern with photography in general, A.S.M.P. has a vital interest in the determination of the case under consideration. The close connection between motion picture photography and still photography is apparent. Both are versions of the same general media and, in their technical aspect, involve similar artistic concerns. Motion pictures are, of course, a form of still photography in that any motion picture consists of a series of still pictures, known as "frames" which are, individually, no different from any other negative of a still picture. The close similarity of these two forms of photography is made apparent when one considers that the still photographs generally used to advertise a motion picture are photographs made from frames of the motion picture itself.

The Society of Magazine Writers, also *amicus curiae* herein, is an unincorporated association formed in the State of New York in 1948. It consists of approximately 190 members, many of whom are considered to be among the first rank of writers in this country. In addition to contributing written material to magazines of all kinds throughout the United States, member writers have also

written many books, a number of which have been made into motion pictures and shown in theaters throughout the country. Member writers also work in the fields of radio and television.

Since, as is common knowledge, much of the material which first appears in books and magazines today is purchased by motion picture companies and is used as the basic scenario for motion pictures, the Society of Magazine Writers is directly concerned with the decision of this Court in the instant case. It is obvious that any prior licensing restraint upon motion pictures will, in the nature of things, inevitably act as a prior restraint upon the work product of the members of the Society of Magazine Writers.

In view of the similarities mentioned and in view of the language used by the opinion of this Court in the instant case, both *amici* herein feel that it will be difficult, if not impossible, to insulate the creative work-product of their members from the effect of the Court's decision regarding motion pictures. In consequence they submit that they have a right to be heard in support of the petition of the Times Film Corporation for a rehearing in this case.

Dated: February 27, 1961

Respectfully submitted,

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